

Motion for Class Certification, Designation of Class Representatives and Class Counsel [ECF 175].

2. Class Plaintiffs' Notice does not address three distinctions between *In re Barrick* and the case against Hunton that make that decision inapplicable here.

a. *First*, Class Plaintiffs cited to the *Barrick* court's holding that "plaintiffs are not required to establish causation—let alone proffer a damages model—on class certification." *In re Barrick*, slip op. at 26. But the *Barrick* court's analysis and holding is limited to the loss causation showing required for claims under Section 10(b) of the Federal Securities Act, *id.* at 16, and Class Plaintiffs do not assert such claims here. Further, it is already clear at the certification stage that individualized issues of causation will predominate on the claims Class Plaintiffs do assert, because causation requires an inquiry into whether Hunton's alleged conduct had any relationship to each investor's purchase of CDs, which is the source of each investor's alleged damages. (*See* Hunton's Opp. to Pls.' Mot. for Class Cert. at 43-44, 52 [ECF 181].)

b. *Second*, the court in *Barrick* determined that Rule 23's predominance requirement was satisfied in part because plaintiffs' proposed theory of damages was "entirely consistent with their theory of [] liability." *In re Barrick*, slip op. at 26. Here, by contrast, to the extent Class Plaintiffs even offer a damages theory, it bears no relationship to their theories of liability against Hunton, as required by *Comcast Corp. v. Behrend*, 133 S. Ct. 1426, 1432 (2013). (*See* Hunton's Opp. to Pls.' Mot. for Class Cert. at 46-50 [ECF 181].)

c. *Third*, the court in *Barrick* determined the plaintiffs' damages could be measured on a class-wide basis by comparing the actual price of the publicly traded stock at issue in that case, to a calculation of the stock's true value. *In re Barrick*, slip op. at 26. Here,

however, measuring Class Plaintiffs' damages is not that simple. Determining damages would require significant inquiry into facts that cannot be evaluated on a class-wide basis. These include, among other things: (1) the date individual investors purchased their SIBL CDs, (2) each investor's risk profile, (3) the representations and circumstances surrounding each investor's decision to purchase SIBL CDs, (4) whether any investors have obtained collateral recoveries, and (5) how to allocate fault among all potentially responsible third parties. (*See* Hunton's Opp. to Pls.' Mot. for Class Cert. at 46-53 [ECF 181].)

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Respectfully submitted,

Richard A. Sayles (Tex. # 17697500)
Shawn Long (Tex. # 24047859)
SAYLES WERBNER
4400 Renaissance Tower
1201 Elm Street
Dallas, TX 75270
dsayles@swtriallaw.com
(214) 939-8701
(214) 939-8787 (Facsimile)

*Counsel for Defendant
Hunton & Williams LLP*

By: /s/ Jeffrey D. Colman
Jeffrey D. Colman (Ill. # 0491160)
David Jiménez-Ekman (Ill. # 6210519)
Andrew W. Vail (Ill. # 6279951)
April A. Otterberg (Ill. # 6290396)
Laura C. Bishop (Ill. # 6308598)
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654-3456
jcolman@jenner.com
(312) 923-2940
(312) 840-7340 (Facsimile)

*Counsel for Defendant Hunton & Williams LLP
Admitted Pro Hac Vice*

CERTIFICATE OF SERVICE

I, Jeffrey D. Colman, hereby certify that on March 30, 2016, I electronically filed the foregoing **Hunton & Williams' LLP's Response to Plaintiffs' Notice of Decision** with the clerk of the U.S. District Court, Northern District of Texas, using the electronic case filing (ECF) system of the court. The ECF system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this notice as service of this document by electronic means.

/s/ Jeffrey D. Colman
Jeffrey D. Colman